

REMARKSRejection of Claims 1-3, 5, 7-10, 12-14, 16-18, 20, 22-25, 27-29, 31-33 and 35-37 Under 35 U.S.C. § 112, Second Paragraph

Claims 1-3, 5, 7-10, 12-14, 16-18, 20, 22-25, 27-29, 31-33 and 35-37 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, Claims 1, 5, 7, 8, 12, 16, 20, 22, 23, 27, 31 and 35 are rejected as indefinite in the recitation of the phrase "...which comprises a codon optimized coding sequence for HIV *gagpol* but not coding sequences for HIV accessory proteins, Rev response element or constitutive transport elements" because, in the Examiner's assessment, a "reasonable interpretation of the cited phrase is that it specifies that the first nucleic acid sequence lacks either coding sequences for at least some HIV accessory proteins, or a rev response element (RRE) or constitutive element (CTE)".

Applicants respectfully disagree with the Examiner's assessment. However, in an effort to advance prosecution in the subject application, Claims 1, 5, 7, 8, 12, 16, 20, 22, 23, 27, 31 and 35 have been amended to more clearly state that the first nucleic acid sequence lacks coding sequences for HIV accessory proteins, Rev response element and constitutive transport elements, as suggested by the Examiner. The amendments are not intended to narrow the scope of the claims.

In view of the amendment to Claims 1, 5, 7, 8, 12, 16, 20, 22, 23, 27, 31 and 35, reconsideration and withdrawal of this rejection under 35 U.S.C. § 112, second paragraph, are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If

the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned at (978) 341-0036.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By *Helen Lee*

Helen Lee

Registration No. 39,270

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: *August 29, 2003*